

## **Minutes of the Meeting of the City of Seaford Planning and Zoning Commission**

July 6, 2006

7:00 p.m.

Chairman Ernest Makowski opened the meeting with the following members present: John Leverage, Earl Conaway, Arsie Burton, Al Temple, and Carol Lynch. Mr. Michael Mulvaney, Building Official, was also present.

Chairman Makowski explained the project recommendations from the meeting will be sent to the Mayor and Council for their determination at the meeting of July 25, 2006.

Mr. Mulvaney presented Case No. R-31-06. Circle J Community Developers, who are the property owners of Tax Map and Parcel 3-31 6.00 5.00 (Gallery Pointe) located on Tharp Road wish to rezone 66.182 acres from R-1 to R-2. The reason is to increase lot coverage for the single family homes. Mr. Mulvaney pointed out the current R-1 portion runs along the stream; this is the area to be rezoned. The lot size will remain the same and the number of homes will remain the same. The R-2 designation allows 40% lot coverage while R-1 allows only 30% lot coverage. This situation is the same as the Commission saw with Governor's Grant. Mearfield also has R-1 lots with an R-2 zoning designation. Chairman Makowski asked what is the difference in the two zones? Mr. Mulvaney stated R-2 allows for smaller lot sizes and smaller setbacks. Chairman Makowski confirmed the number of houses will remain the same and the lot size will remain the same. He also noted this was the second time the developer had come before the Commission for a zoning change. Mr. Temple asked for clarification on setbacks. Mr. Mulvaney noted the setbacks for R-1 are 20' front yard; 20' rear yard and 20' aggregate total for side yard with a minimum of 8' on one side and a 30% lot coverage; R-2 are 15' front yard; 20' rear yard and 14' aggregate total for side yard with a minimum of 6' on one side with a 40% lot coverage. Mr. Conaway inquired if a duplex would be permitted? Mr. Mulvaney said the lots would have to be 9,000 square feet and the developer would have to receive approval from the Board of Adjustment and Appeals. Mr. Leverage asked how this change would affect the storm water pond. Mr. David Braun of Braun Engineering stated when Conservation does the calculations it assumes more coverage than required by the Zoning Code, so there is no change in impact. Mrs. Lynch asked what is the current situation in this area after a storm event? Mr. Mulvaney said that both Governor's Grant and Mearfield made out well, the on-site storm water ponds handled the runoff. Mr. Greg Nolt, 9418 Tharp Road commented that Tharp Road had severe flooding in 2001 as designed and, in June 2006, water was going over Tharp Road Bridge. Flooding is an issue with properties along Tharp Road; he hopes the developer will take this into consideration and the ponds for this site will also make some improvements along Tharp Road.

Mr. Mulvaney presented the Findings of Fact:

- ↳ The property meets the R-2 area and bulk requirements;
- ↳ The change is consistent with the Comprehensive Plan;
- ↳ The developer wants to take advantage of the 40% lot coverage in R-2 as compared to the 30% lot coverage in R-1;
- ↳ The Planning and Zoning Commission is to make a recommendation to Council.

Chairman Makowski called for public comment. There was none.

Mr. Conaway made a motion to recommend approval of the rezoning of 66.182 acres of land in Gallery Pointe from R-1 to R-2. Mr. Temple seconded the motion.

Roll Call Vote:

Mr. Conaway voted in favor based on findings of fact with the stipulations the developer is not adding more dwelling units;

Mr. Leverage voted in favor based on findings of fact but with some reservations due to the storm water impact on the area;

Mr. Temple voted in favor based on findings of fact but he also has reservations about the storm water situation;

Mrs. Burton voted in favor based on findings of fact but had reservations because of the storm water problems;

Mrs. Lynch voted no because of her reservations about the storm water situation. She feels a lot more investigation needs to be done by Conservation because of the problems in 2001 and also the flooding in June 2006.

Chairman Makowski noted the motion passed four in favor and one opposed to approve the rezoning however, the Commission had strong concerns about the storm water management issues in the area.

Mr. Mulvaney presented Case No. S-34-06. Mrs. Kimberly Batson-Purnell, property owner of Tax Map and Parcel 4-31 5.00 145, 208 E. King Street, wishes to divide this property into two (2) R-2 lots. Mrs. Purnell resides at this location; as the property exists now there is an existing two story home on one large lot. The parcel was two separate lots at one time, but through real estate transactions the two were combined. The new property line will help the existing house comply with the side yard setbacks except on the west side, however, this is a pre-existing condition. The "new" lot will be more conforming. Mrs. Lynch asked if the subdivision was being done so another building could be constructed on the lot? Mr. Mulvaney replied the subdivision gives the owner the ability to sell the lot. Mrs. Lynch asked if a new building would be a single family home? Mr. Mulvaney said that would be the only type of structure permitted due to the size of the lot. Mr. Leverage asked if adequate off street parking is available. Mr. Mulvaney said the lot has access from Pearl Street, there is plenty of room for off street parking.

Mr. Mulvaney presented the Findings of Fact:

- ↳ The property meets the R-2 area and bulk requirements;
- ↳ The lot will tie into City services;
- ↳ The Commission is to make a recommendation to the Council.

Chairman Makowski called for public comment. There was none.

Mrs. Lynch made a motion to recommend the subdivision as presented. Mrs. Burton seconded the motion.

Roll Call Vote:

Mr. Conaway voted in favor based on findings of fact;  
Mr. Leverage voted in favor based on findings of fact;  
Mr. Temple abstained since he prepared the survey;  
Mrs. Burton voted in favor based on findings of fact; and,  
Mrs. Lynch voted in favor based on findings of fact.

Chairman Makowski noted the motion passed with four voting in favor and one abstention.

Mr. Mulvaney moved on to Case No. S-35-06. Cecil and Mary Tull and Virginia Thawley property owners of Tax Map and Parcel 5-31 12.00 38, located between Chapel Branch and Stein Highway and Atlanta Road, known as *Tull Meadows*, wish to subdivide 32.944 acres from the larger parcel. When the developer purchases 128 acres, part of land that is wetlands was not to be included in the sale. This area is basically wetlands along Chapel Branch and not buildable. It is to remain in the Tull's possession.

Mr. Mulvaney introduced Mr. and Mrs. Thawley, property owners and Mr. Craig Shannon, project engineer, Morris & Ritchie Associates.

Mr. Conaway pointed out the storm drain is right on the division line. Mr. Mulvaney commented there is a large easement in the area, which is the approximate area of the division. Mr. Mulvaney noted the site has two (2) 48" pipes already in the ground that handles storm water from Sussex Avenue/Atlanta Road. Mr. Conaway commented that Conservation likes to see development stay 100' from the center of the wetlands. Mr. Shannon said in order to disturb wetlands the Army Corps of Engineers permit must be obtained. They stated they are not disturbing the wetlands, only a very small area is being cleared of trees for the outfall. All the houses along the Chapel Branch will have a large green space and are at least 90 feet from the wetlands. Sussex Conservation has approved the concept storm water management plan; the final plan is under review. A study was one on the Branch and submitted to GMB for review, they have returned comments to Morris & Ritchie to address. The property owner and developer have a contractual obligation to close by the end of July, they need to have the subdivision approved. Mr. Leverage asked if Chapel Branch plays any part on the water runoff. Mr. Shannon explained how the pond will function during a 10 year storm. He then stated that the houses are built 2' above the flood elevation. He concluded his talk by saying MRA will submit to FEMA for a revision of the flood maps after the houses are built; the process takes approximately six months.

Mrs. Lynch asked about the environmental impact to Chapel Branch from lawn fertilizing, etc. Mr. Shannon responded that nutrient protocol isn't in effect by DNREC; MRA has been on board to develop a sensible protocol. A vegetation buffer is the best protection.

Chairman Makowski called for public comment. There being none, Mr. Mulvaney presented the Findings of Facts:

- ↳ The subdivision meets the area and bulk requirements for R-2;
- ↳ The Planning and Zoning Commission is to make a recommendation to Council.

Mr. Leverage made the motion to approve the subdivision, as presented. Mr. Temple seconded the motion.

Roll Call Vote:

Mr. Conaway voted in favor based on findings of fact;  
Mr. Leverage voted in favor based on findings;  
Mr. Temple voted in favor based on the findings of fact;  
Mrs. Burton voted in favor based on findings of fact; and,  
Mrs. Lynch voted in favor based on findings of fact.

Chairman Makowski so noted all present voted in favor of the motion.

Mr. Mulvaney presented Case No. S-36-06. Pamela Landon and John Chanoski, property owners of Tax Map and Parcel 4-31 4.00 106, E. King Street, are applying for approval to subdivide this property into three C-3 lots. Mr. Mulvaney introduced Ms. Pamela Landon.

The property is zoned C-3. Each lot would be 5400 square feet, 45' front lot width and 120' in depth. The owners hope to sell as individual lots. The lots will utilize existing water and sewer in King Street. Chairman Makowski noted the area is zoned C-3 Riverfront Enterprise Zone, except for the properties owned by Soil Service on the south side of High Street. Mr. Mulvaney further explained the lots in C-3 that are not located on High Street have the same area and bulk requirements as R-2 lots but can be used for commercial uses in addition to residential. Chairman Makowski inquired of Ms. Landon if she intended to develop the lots or to sell them. She responded that her plans were to sell the lots. Mr. Mulvaney then explained the setbacks for R-2: 15' front yard; 20' rear yard and a 14' aggregate total side yard with a minimum setback of 6'. The setbacks for High Street are allow a 100% lot coverage with a 3' minimum rear yard. Mr. Leverage asked what could be built on the lots? Mr. Mulvaney gave a quick overview of the uses: retail; small offices; financial institutions, eating establishments and things of a similar nature. Chairman Makowski pointed out a 10' utility easement; Mr. Mulvaney noted the easement was on the adjoining lot. Mrs. Lynch was interested in parking requirements in such a limited parking situation. Mr. Mulvaney explained a single family home would be required to provide 300 square feet of paved off street parking; however, a C-3 business may receive a waiver from the Council for off street parking.

Chairman Makowski called for public comment. There being none Mr. Mulvaney presented the findings of fact:

- ↳ Meets requirements for C-3;
- ↳ The lots will use the existing City utilities;
- ↳ The Planning and Zoning Commission is to make a recommendation to Council.

Mr. Temple made the motion to recommend the approval for the subdivision of Tax Map and Parcel 4-31 4.00 106; Mrs. Lynch seconded the motion.

Roll Call Vote:

Mr. Conaway voted in favor based on findings of fact;  
Mr. Leverage voted in favor based on findings;  
Mr. Temple voted in favor based on the findings of fact;  
Mrs. Burton voted in favor based on findings of fact; and,  
Mrs. Lynch voted in favor based on findings of fact.

Chairman Makowski so noted all present voted in favor of the motion.

Mr. Mulvaney went on to the final site plans for Comfort Suites. He introduces Mr. Ken Christenbury, Axiom Engineering. Mr. Mulvaney explained this is the last time the project would be seen. The building is four story building with 3 meeting rooms with a total capacity for 100 people, 68 rooms and an indoor pool. It will be located just south of the Eagle Diner. The entrance will be north of the crossover. DeIDOT has taken a 60' easement across the rear of the site for the Corridor Preservation Road; sometime in the future when the road is built DeIDOT has agreed to relocate the storm water pond. The City tried to work with the property owner to the south to obtain an interconnection, but the owner would not agree. Mr. Christenbury stated a concrete curb will be installed in the crossover to separate traffic; this will also prevent people leaving the motel from making a U-turn, traffic would have to go to the light at Rt. 20 to head north. Vehicles will park around the building. The covered pool is in the back of the property. Mr. Conaway asked about sidewalks. Mr. Christenbury said sidewalks will be installed across the front of the site and around the building. Mr. Mulvaney explained when the property to the south develops, DeIDOT will require the entrance to be a shared entrance. Chairman Makowski asked on behalf of the Fire Chief if the elevator will accommodate a stretcher? Mr. Mulvaney said yes, the Fire Marshall won't approve the plans without one. The Fire Chief will verify.

Mr. Mulvaney listed the findings of fact:

- ↳ The site meets the C-2 requirements;
- ↳ The site complies with the off street parking requirements;
- ↳ The project has received approval from DeIDOT, Sussex Conservation and the State Fire Marshall;
- ↳ The project received a variance on April 6, 2005 for building height from 3 to 4 stories one of the reasons the variance was granted because DeIDOT asked for a 60' right of way of land across the rear of the site for a cross access road;
- ↳ The Planning and Zoning Commission is to make a recommendation to Council.

Mr. Leverage asked for background information regarding Sussex Conservation issues on the site. Mr. Christenbury advised the Commission to the rear of the property is an existing creek bed, water will be directed to this area. The pond is a dry detention pond. The parking lot will have curbing to direct the water flow to the proposed pond; in the front a series of oversized pipes will provide supplemental storage. DeIDOT has an existing pipe that provides drainage under Rt. 13. This drainage system is being relocated which will allow the highway drainage to continue to bypass the property. Sussex Conservation has two requirements that a development must meet: 1) The pond has to release runoff from a 2" storm over 24 hours;

and 2) during a 10 year storm the pond has to retain water at a pre-determined rate; during a 100 year storm water flow will bypass the pond through an emergency spillway. Mr. Temple asked who is responsible for the maintenance of the pond. Mr. Christenbury noted the property owner is responsible. Mrs. Lynch asked who would enforce the clean out. Mr. Mulvaney responded that Conservation has implemented a new program where the developer pays a fee and Conservation crews will do the routine maintenance checks – overgrowth, weeds, etc.

Mr. Temple made a motion to recommend approval of the final site plan for Comfort Suites. Mrs. Lynch seconded the motion.

Roll Call Vote:

- Mr. Conaway voted in favor based on findings of fact;
- Mr. Leverage voted in favor based on findings;
- Mr. Temple voted in favor based on the findings of fact;
- Mrs. Burton voted in favor based on findings of fact; and,
- Mrs. Lynch voted in favor based on findings of fact.

Chairman Makowski so noted all present voted in favor of the motion.

Mr. Mulvaney presented the final site plan review for Orient Corporation of America. Orient Corporation proposes to construct a 12,000 ± square foot research and development building. Mr. Mulvaney introduced Mr. Matt Drew, project engineer, Andrew W. Booth & Associates and Mr. David Curry, Orient Plant Manager.

Mr. Mulvaney discussed the project – Orient Corporation is located in the Seaford Industrial Park at 111 Park Avenue. The new building will be constructed directly across the road from the existing plant on the west side of Park Avenue. The entrance to both buildings will be aligned. Most of the site will be fenced. They will comply with the Code regarding the 30% masonry finish. The building will have some loading bays and docks. The Fire Marshall is requiring a ring road for the fire service. This facility will be a mini-plant to run test batches of product. A large swale on the north side will channel water to the existing ditch that drains to the storm water pond. Mr. Drew added the existing pond will be expanded. Mr. Mulvaney pointed out when the Park was built Conservation had no requirements for storm water in effect. Now, each project handles their own storm water problems. No standing water has been observed during a storm, the ditch system seems to work as does the outfall. .

Mrs. Lynch asked if any environmental standards are imposed or any type of emissions coming from the building. Mr. Drew responded that he was not sure about the emissions. The use is to mainly develop new inks. The emissions will be handled through DNREC. The nature of the product is unknown until it is developed. The building will consist of a lab, offices and a process area will have a three hour fire rated wall to separate it from the rest of the building. There will not be any windows in the process area.

Mr. Drew further explained the equipment in the process room because the process will be developed on case by case basis on a specific chemical process will be re-reviewed by the City when an actual process is identified. In regards to spill containment in the process area, they have provided sloped floors, trench drains; all spills will be captured in the building. How would you dispose of them? Typically you determine what it is; an unknown is handled on a case by case basis. The biggest spill would probably be one or two drums. The Fire Department would be made aware of the spill if it had to be transported as they are part of the spill response. The Fire Chief has been in on the discussions of the project. The site has a motorized gate with a two keypads - one at car height and one at engine height with the Fire Department having their own access number.

Mrs. Lynch asked if emission testing is done? Mr. Drew explained any facility in any State has to have a local program that meets or exceeds EPA requirements. In Delaware EPA administers the program on behalf of the State. Before you can purchase equipment, let alone run it, you have to have a "permit to construct". What that means is that you have to have an estimate on what constituent chemicals are being used, how they are processed and the expected rate of emissions and if they are above the standards, you may have to install an emissions control. If you don't abide by the strict standards, EPA has a strict fine structure.

Mr. Mulvaney presented the findings of fact:

- ↳ The project meets the Industrial Park Covenants;
- ↳ The Fire Marshall and DeIDOT have approved the project;
- ↳ Sussex Conservation approval is pending, there is one minor issue; and
- ↳ The Planning and Zoning Commission is to make a recommendation to Council.

Chairman Makowski called for Public Comment, there being none, Mr. Temple made the motion to recommend the final site plan for the research and development building for Orient Corporation. Mr. Leverage seconded the motion.

Roll Call Vote:

- Mr. Conaway voted in favor based on findings of fact;
- Mr. Leverage voted in favor based on findings;
- Mr. Temple voted in favor based on the findings of fact;
- Mrs. Burton voted in favor based on findings of fact; and,
- Mrs. Lynch voted in favor based on findings of fact.

Chairman Makowski the Commission voted unanimously in favor of the motion.

There being no other business, Chairman Makowski called for a motion to adjourn. Mrs. Burton so moved, Mrs. Lynch seconded the motion. Motion passed unanimously. Chairman Makowski adjourned the meeting at 8:25 p.m.

By: \_\_\_\_\_  
Ernest Makowski, Chairman

